

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM I. KOCH, an individual, :

Plaintiff, :

vs. :

ERIC GREENBERG, an individual; ZACHYS  
WINE & LIQUOR STORE, INC., a New York  
corporation; and ZACHYS WINE AUCTIONS,  
INC., a New York corporation, :

Defendants. :

No.: 07 Civ. 9600 (BSJ) (DCF)  
ECF Case

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**DECLARATION OF ERIC GREENBERG IN SUPPORT OF DEFENDANT ERIC  
GREENBERG'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER  
JURISDICTION PURSUANT TO RULE 12(b)(1) OR, IN THE ALTERNATIVE, TO  
DISMISS FOR FAILURE TO STATE A CLAIM PURSUANT TO FEDERAL RULE 12(b)(6)**

I, ERIC GREENBERG, declare and state as follows:

1. I am one of the defendants in this action. I make the following statements of my own personal knowledge and if called upon to testify concerning them, could and would do so.

2. I have attached as Exhibit A hereto a true and correct copy of the cover page, four unnumbered introductory pages and pages 233-235 and 238-240 from the Zachy's Wine Auction, Inc. catalog for:

The Fall Auction  
Over 17,000 Bottles of Greatness  
Friday, October 28 & Saturday, October 29, 2005  
Daniel, New York City.

We have added page numbers 1 through 5 to the unnumbered pages for convenience. This catalogue was produced for the October 28, 2005 Zachys wine auction referred to in plaintiff's complaint in this action.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 13<sup>th</sup> day of December, 2007, in EMERYVILLE, California.

  
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ERIC GREENBERG

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